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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/751,635      | 12/29/2000  | Stephen S. Selkirk   | 00-059-DSK          | 9246             |

7590 12/28/2004

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| EXAMINER |
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LANE, JOHN A

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| ART UNIT | PAPER NUMBER |
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2188

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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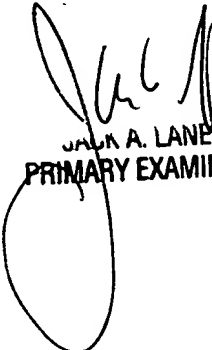
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**Commissioner for Patents**

The amendment filed on 12/09/2004 rewriting all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the method for creating a logical device of rewritten claim 1 includes the steps of "determining storage characteristic requirements...reading from an inventory of virtual data unit requirements", "processing the storage characteristics requirements...using a storage methodology inventory" and "identifying...a storage unit capabilities inventory". The invention of elected claim 1 did not have the above functional/structural limitations.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

  
JOHN A. LANE  
PRIMARY EXAMINER